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REMARKS/ARGUMENTS

Prior to this Amendment, claims 1-36 were pending in the application.

Dependent claims 3, 18, and 33 are amended to address a written description requirement and to better comply with the language of the specification in para. [0029].

Claim 1 is amended such that the claim is directed to statutory subject matter (i.e., a computer program product) and also to include the limitations of claim 6, which was not rejected on any prior art bases, and the limitations of intervening claims 4 and 5. Claims 4-6 are cancelled.

Independent claim 16 is amended to include the limitations of claim 21, which was not rejected based on any prior art, and the limitations of intervening claims 19 and 20. Claims 19-21 are cancelled.

Independent claim 31 is amended such that the claim is now directed to a computer program product and to include the limitations of dependent claim 32 (which is cancelled).

Independent claim 36 is cancelled.

New independent claim 37 and claim 38, which depends from claim 37, are added to protect features of the invention not shown by the references of record in the case.

After entry of the Amendment, claims 1-3, 7-18, 22-31, 33-35, 37, and 38 remain in the application for consideration by the Examiner.

Claim Rejections Under 35 U.S.C. §101

In the December 13, 2005 Office Action, claims 1-35 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Independent claims 1 and 31 are amended to address this rejection as being directed to computer program products (as was found to be proper subject matter by the Examiner for original claim 36).

However, Claim 16 is a system claim with limitations provided in means-plus-function language, and as a result, this claim is not amended to address this rejection. This claim is believed to comply with the requirements of statutory subject matter with structure provided with reference to Figure 1 and the processes implanted within a computer system being described with reference to Figures 2-6.

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Claim Rejections Under 35 U.S.C. §112

Also, in the December 13, 2005 Office Action, claims 3, 18, and 33 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Claim Rejections Under 35 U.S.C. §102

Additionally, in the Office Action, claims 1-5, 7, 9-20, 22, and 24-36 were rejected under 35 U.S.C. §102(b) as being anticipated by Mendiratta, V. B., "Reliability Analysis of Clustered Computing Systems" ("Mendiratta"). This rejection is traversed based on the following remarks.

Claim 1 is amended to include the limitations of claim 6 (and intervening claims 4 and 5). The Office Action did not reject claim 6 based on Mendiratta, and Applicant believes this reference fails to teach or even suggest amended claim 1. Hence, claims 1 and claims 2, 3, and 7-15, which depend from claim 1 are now believed in condition for allowance over Mendiratta. Claim 8 was also not rejected based on Mendiratta (but only under 35 U.S.C. §101), and this claim is believed allowable as depending from an allowable base claim and because its limitations are not shown or suggested by Mendiratta.

Similarly, independent claim 16 is amended to include limitations of dependent claim 21 (and intervening claims 19 and 20). The Office Action did not present any prior art rejections for claim 21 and, particularly, Mendiratta does not support an anticipation or obviousness rejection of amended claim 16. As a result, claim 16 and claims 17, 18, and 22-30, which depend from claim 16, are believed in condition for allowance over Mendiratta.

Independent claim 31 is amended to include the limitations of dependent claim 32, which is cancelled. Claim 32 now calls for the computer program product to cause a computer to construct an escalation graph for each of the plurality of software components in a modeled cluster. In the Office Action, Mendiratta is cited for showing this with its Figure 2. However, Figure 2 shows an escalation graph that is being used as a cluster failure model, and it models failure of the cluster for all processors (i.e., where "N" is the number of processors as discussed in Sect. 4.3). There is no discussion in Mendiratta of constructing an escalation graph for each software component in a cluster. Hence, this reference does not support an anticipation rejection of claim 31. Claims 33-35 depend from claim 31 and are believed allowable over Mendiratta at least for the reasons provided for claim 31.

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Conclusions

In view of all of the above, Applicant requests that a timely Notice of Allowance be issued in this case.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

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